



*Sent via Overnight Mail*

May 1, 2019

Delaware Public Service Commission  
861 Silver Lake Blvd.  
Cannon Bldg., Suite 100  
Dover, DE. 19904

RE: Liberty Power Holdings, LLC  
Revised Enrollment, Marketing, and Advertising Material  
Docket Number: 06-380

To Whom It May Concern:

Liberty Power Holdings, LLC has been certified as a Retail Electric Supplier by the Delaware Public Service Commission. Pursuant to 26 Del. Admin. C. Sections 3001-11.4, Liberty Power Holdings, LLC submits the following revised documents:

1. Terms and Conditions
2. Enrollment Agreement
3. Contract Summary
4. Welcome Letter
5. EDL Disclosure

Should you have any questions or require additional information, you may reach me via email at [mcastillo@libertypowercorp.com](mailto:mcastillo@libertypowercorp.com) or directly at 954-489-7142.

Sincerely,

Michelle Castillo  
Regulatory Compliance Analyst

*Powerful Together*



## CUSTOMER TERMS AND CONDITIONS

### Delaware – Residential – Liberty National Green Fixed Rate Plan

"Liberty Power", "us", "we" or "our" means Liberty Power Holdings LLC and refers to the retail electricity provider supplying electricity to you as provided in these Customer Terms and Conditions. "Customer", "you", or "your" means the customer identified in the Voice Authorization, Written Authorization or Electronic Authorization, and as addressed in the Liberty Power Plan Description.

**Entire Agreement:** The voice recording confirming your decision to switch to Liberty Power ("Voice Authorization"), or the signed Energy Services Enrollment Agreement ("Written Authorization") or your electronic decision to switch to Liberty Power ("Electronic Authorization"), along with these Customer Terms and Conditions, and the Contract Summary, are your full Agreement ("Agreement") to receive Electricity Supply Service from Liberty Power. They take the place of any and all prior Agreements or oral or written information about your Liberty Power energy supply. Please keep this Agreement for your records. The Plan Description is included in your Liberty Power Welcome Kit and has important information about your Account.

**Green Rate:** This is a full requirements Agreement. You agree to pay the Rate stated in the Voice or Written Authorization applied to total usage per account as reported by the Utility each month. The fixed Rate shall apply without limitation due to usage variation. For purposes of this Agreement, Rate means the energy price, including congestion, capacity, network transmission, ancillary services, losses, Auction Revenue Rights ("ARR"), Renewable Portfolio Standards ("RPS") compliance costs, generation and any other miscellaneous charges (including, but not limited to ISO/RTO, or PUC fees). The Price does not include taxes, regulated charges from your Local Distribution Utility, Delmarva (the "Utility"), including, but not limited to, Utility delivery and distribution charges, customer account fees or other Utility transition charges.

In addition, Your Rate includes the voluntary purchase of renewable energy certificates (RECs) generated nationally to offset 100% of your usage as reported by the Utility. For every unit of renewable electricity generated, an equivalent amount of RECs is produced. Your purchase of RECs is supporting electricity production nationally and helps offset conventional electricity generation. The purchase also helps build a market for renewable electricity and may have other local and global environmental benefits such as reducing global climate change and regional air pollution. The RECs in a Green-e Energy certified product are verified and certified by Green-e Energy, and the seller of a Green-e Energy certified product is required to disclose the quantity, type and geographic source of each certificate. Please see the Product Content Label provided by your REC supplier, Liberty Power, for this information. Green-e Energy also verifies that the renewable energy certificates are not sold more than once or claimed by more than one party. Green-e Energy certifies that the Liberty Green Plan meets the minimum environmental and consumer protection standards established by the non-profit Center for Resource Solutions. For more information about RECs, please visit [www.green-e.org](http://www.green-e.org).

**Right of Rescission:** You can rescind (cancel without an Early Termination Fee or "ETF") this Agreement within three (3) business days from the date you signed the Agreement, the date you electronically transmitted your acceptance of it, or the date of its receipt and Contract Summary via U.S. mail, by providing written Notice to the Utility or us that you wish to rescind your choice of Liberty Power as your electric energy supplier. You may also call us at 866-769-3799 (866-POWER-99) toll free during normal business operational hours.

**Onsite Generation:** If you currently own onsite generation recognized under Governing Law or regulatory rule(s) applicable to this Agreement as an eligible renewable or other electrical generating facility (such as solar panels) to supply all or part of your electricity usage and such facility is or will be net metered by the Utility you must have indicated the existence of such generation in your Voice or Written Authorization. If you currently own such onsite generation, you further agree to inform Liberty Power if it is presently being net metered or is expected to be net metered during the term of this Agreement in order for Liberty Power to determine and/or confirm your net metering eligibility, and, if eligible, to properly enroll you, to continue to serve you or to continue to serve you at your current Rate. If you plan to install new onsite generation that will be net metered during the term of this Agreement, you agree to provide Liberty Power with sixty (60) days prior written notice or such other notice as is required by Governing Law, applicable regulatory rule(s) or Utility tariff of such plan in order for Liberty Power to determine and/or confirm your net metering eligibility, and if eligible, to continue to serve you or to serve you at your current Rate. Unless prohibited by Governing Law or regulatory rule(s) applicable to this Agreement, failure to furnish this material information prior or subsequent to receiving electricity service under this Agreement may result in, at Liberty Power's sole discretion, discontinuation of the enrollment of your account(s), adjustment of your offered Rate under the Material Change provision of this Agreement, or termination of this Agreement as an Event of Default under the Termination of Services provision of this Agreement.

**Billing:** Liberty Power will bill you monthly for electricity supply based on your electricity usage as reported to us by your Utility. You will be billed under one of two billing options which you may select: (1) a line item on a consolidated Utility bill; or (2) as a direct bill from Liberty Power for the electricity supply only, with the delivery charges invoiced separately by the Utility. You will be sent a monthly invoice which is payable by check, credit or debit card or Electronic Funds Transfer ("EFT") by the due date on the invoice.

**Payment Instructions for Direct Billed Accounts:** Bills are due and payable by the stated due date on the invoice and will be subject to a finance charge for any late payment (at the lesser of 1.5% per month of the outstanding balance or the maximum rate permitted by applicable law) and collection fees, including reasonable attorneys' fees and court costs. A fee of \$30 per transaction will be assessed due to insufficient funds for any method of payment. All direct payments should be sent to Liberty Power Holdings LLC, 25901 Network Place, Chicago, IL 60673-1259.

**Collection of Past Due Charges:** Liberty Power will pass through to you all charges related to the collection of past due invoices, including, but not limited to, collection agency fees, legal and court fees, and Account termination fees. We reserve the right to apply any deposit to balances owed at the time your Account is placed in a collections status.

**Term:** The term of this Agreement is as stated in the Voice, Written, or Electronic Authorization. Effective with the Utility meter read applicable to your Requested Flow Start Month (the month in which you are requesting service with us to begin), Liberty Power will supply electricity to you ("Effective Start Date"). In the event the Utility meter read applicable to your Requested Flow Start Month occurs prior to the Requested Flow Start Month, your electricity supply service with Liberty Power may commence on the date of the Utility meter read ("Effective Start Date"). Liberty Power will not be responsible for any gap in service that may occur between the termination of Customer's service with a prior supplier and the commencement of service from Liberty Power or any penalty assessed by a prior supplier where Customer begins service with Liberty Power in advance of the Requested Flow Start Month. You will receive a reminder Notice of your upcoming Term expiration approximately forty-five (45) days in advance of expiration. If you do not cancel service, switch to the Utility or another electric supplier, or renew on a new Liberty Power plan at the end of your Term, service will automatically continue with Liberty Power on a Rollover Variable rate. This Rollover Variable rate will renew monthly unless you or Liberty Power cancel, upon thirty (30) days written Notice, or as otherwise applicable in this Agreement. The Terms and Conditions applicable to the Liberty Power Rollover Variable Plan, including your first variable rate, will be made available to you via mail with the reminder Notice. Subsequent next billing cycle variable rate information can be obtained by calling us at 866-769-3799 (866-POWER-99) toll free during normal business operational hours. Cancellation must be in writing and mailed to Liberty Power Customer Care Team at 2100 W. Cypress Creek Rd., Suite 130, Ft. Lauderdale, FL 33309.

**Credit/Security Deposit:** In completing this Agreement, you authorize credit-reporting agencies to provide Liberty Power with any information it may have on you or your business. Liberty Power may require a security deposit to initiate service, depending on credit or payment history. Any deposit requirement will be sent to you in writing. Deposits held more than thirty (30) days will accrue interest, at the Wall Street Journal Prime Rate, from the date of receipt.

**Dispute Resolution:** Liberty Power's Customer Care Team is available at 866-769-3799 to help with any questions or concerns regarding your Accounts. If you have a good faith dispute concerning an unpaid bill or bills, termination of your Electricity Supply Service will not take place pending determination of the dispute. However, termination of your Electricity Supply Service by the Utility will not be delayed where the undisputed portion of the bill or bills is not timely paid or eliminated under an installment payment plan. Our representatives are committed to resourcefully finding resolution; however, if Liberty Power is unable to resolve the matter to the Customer's satisfaction, the Delaware PSC can be reached at (302)736-7500, or Customer may write the PSC – 861 Silver Lake Blvd, Suite 100, Cannon Building, Dover DE 19904 or online at [http://dep.sc.delaware.gov/frm\\_cmplnt.shtml](http://dep.sc.delaware.gov/frm_cmplnt.shtml). You may also reach out to the Delaware Division of the Public Advocate for assistance by calling toll-free (888) 607-2425 or by email at [public.advocate@delaware.gov](mailto:public.advocate@delaware.gov).

**Termination of Service:** Liberty Power may terminate service, upon at least thirty (30) days' written notice, for any Event of Default that you incur. You will then receive electricity supply from the Utility or will be given the opportunity to choose a different electricity provider, based on the rules of the local Utility. You will be responsible to pay for electricity consumed before service was terminated, as well as any applicable ETF as described below.

You may terminate this Agreement by giving Liberty Power at least thirty (30) days' written Notice. Your termination of this Agreement prior to the expiration of the Term constitutes an Event of Default and will result in an ETF. Liberty Power will waive your ETF if you **first** contact us directly in order to cancel your service. If you cancel service prior to the expiration of your Agreement without first contacting Liberty Power (for example, Liberty power receives a drop notification from the utility without first being notified by you), the ETF will apply.

**ETF equals \$10 per month remaining at the time of early termination:**

#### **\$10.00 X REMAINING TERM**

If you provide us with satisfactory documentation that you have moved outside of your current Utility's service territory, we will waive the ETF.

**Account Drops:** If you decide to drop one or more of the Accounts from this Agreement, you will be liable to Liberty Power for an Account Drop Fee for each Account dropped. The Account Drop Fee will be calculated in the same way as the Early Termination Fee is calculated.

**Meter Equipment:** Liberty Power does not take ownership of your existing metering equipment. While you have an electricity Agreement with Liberty Power, we have the right to install new metering equipment, at Liberty Power's expense.

**Disconnection of Service:** Only the local Utility has the ability to disconnect your service. Failure to make full payment of the charges due will be grounds for disconnection based on Delaware law.

**Events of Default:** A Customer Event of Default means: (a) your failure to make, when due, any payment required by this Agreement; or (b) the failure to take electric supply when delivered under terms of this Agreement unless remedied within ten (10) business days following written Notice; or (c) the significant downgrading of your credit rating since the Effective Date of this Agreement; or (d) tampering or disconnecting of your electric meter which may cause or may reasonably be expected to cause an inaccurate reading or no reading of the usage data provided by the meter; or (e) a breach of any material provisions in this Agreement.

A Liberty Power Event of Default means the failure to fulfill the material obligations of this Agreement with regard to Rate, Term, and supply of agreed usage volume if not remedied within ten (10) business days after giving Notice.

An Event of Default is applicable to either party who files a petition for bankruptcy, or other action under any bankruptcy or similar law for the protection of creditor, if the petition or other action is not withdrawn or dismissed within twenty (20) business days of its filing.

**Remedies for Customer Event of Default:** In the event of a Customer Event of Default, Liberty Power has the right to terminate this Agreement in accordance with the Termination of Service provision. In place of termination, we may require an additional deposit from you or request advance payment of an amount up to the average historical consumption for the last three (3) month period.

**Material Misrepresentation:** This Agreement may be terminated in accordance with the Termination of Service

Provision in the event you make a Material Misrepresentation in order to induce us to enter into this Agreement. For purposes of this Agreement, a Material Misrepresentation is any fact provided by you, that we relied upon in agreeing to the Rate, Term or service in this Agreement, and the fact is later found to be false, and which if known to be false, we would not have entered into this Agreement, or would have entered into this Agreement under different Rate, Term or other service conditions.

**Electric Emergencies and Power Quality:** The Utility will continue to operate the electric transmission lines and be responsible for power outages and quality. You will hold Liberty Power harmless in the event of a loss of power caused by any entity other than Liberty Power. If you have an electrical emergency, power outage, or reduction in power quality, contact the Utility at its emergency number on your invoice.

**Material Change:** Except as provided in the Change in Law provision below, Liberty Power will provide you with forty-five (45) calendar days' advance Written Notice of any Material Change in the Customer Terms and Conditions, including a change in the Rate. The change(s) will become effective thirty (30) days after your receipt of the Notice unless you cancel your Agreement.

**Governing law:** This Agreement and the rights and duties of both parties are governed by the laws of the State of Delaware.

**Change in Law or Regulation:** In the event that there is a change (including changes in interpretation) in law, regulation, rule, ordinance, order, directive, filed tariff, decision, writ, judgment, or decree by a governmental authority, regulatory body or the regional Independent System Operator ("ISO"), or in the event any of the foregoing which is existing as of the date of this Agreement is implemented or differently administered, including, without limitation, changes in tariffs (including, but not limited to transmission or capacity costs), protocols market rules, load profiles, and such change results in Liberty Power incurring additional costs and expenses in providing the services contemplated herein, these additional costs and expenses may, at our option, be assessed to you in your monthly bills for service as additional pass-through charges, to the extent permitted by applicable law or regulatory rules.

**Notices:** All Notices and correspondence will be in writing and delivered to you and Liberty Power, as applicable, by regular mail, courier, electronic mail, text message, facsimile or other mutually agreed upon form of communication. Notice will be effective upon receipt by the person to whom it is addressed.

**Assignment:** Assignment of this Agreement by Customer, without the prior written consent of Liberty Power is not permitted except as herein provided. Liberty Power may assign Customer's Accounts, revenues and proceeds, or grant a lien against them, to credit providers. These credit providers may directly enforce Liberty Power's rights under this Agreement and may, upon foreclosure, assign Liberty Power's rights under this Agreement. Liberty Power may also assign its rights and obligations under this Agreement to service providers for services such as invoicing and power scheduling.) Upon written notice to you and upon satisfaction of all regulatory requirements, if any, Liberty Power may assign this Agreement to other entities as well who will then provide you with electric service under this Agreement. You will have the right to assign this Agreement to an entity controlled by, controlling, or under common control with, Customer or as otherwise agreed upon in writing by Liberty Power.

**Force Majeure:** Force Majeure means an event or circumstance not reasonably within the control of, or due to the negligence of, Liberty Power, including without limitation acts of God, accidents, strikes, labor disputes, required maintenance work, inability to access the Utility system, nonperformance of the Utility, cuts to service lines, or Changes in Laws, rules, regulations, practices or procedures of any governmental authority or any other cause beyond the reasonable control of Liberty Power. Liberty Power will endeavor in a commercially reasonable manner to provide service, but cannot guarantee a continuous supply of electrical energy. Force Majeure events may result in interruptions in service. Please be aware that Liberty Power does not produce, transmit or distribute electricity and will not be liable for any damages for interruptions in service.

**Indemnity:** Each party to this Agreement shall indemnify, defend and hold harmless the other from and against any claims arising from or out of any event, circumstance, act or incident that the indemnifying party caused due to its negligence, willful misconduct, strict liability, or any action or inaction which gives rise to any liability.

**Representations and Warranties:** The electricity supplied by Liberty Power under this Agreement will be purchased from a variety of sources. Liberty Power makes no representations or warranties other than those expressly stated in this Agreement. Liberty Power expressly disclaims all other warranties, express or implied, including warranties of merchantability, conformity to models or samples, and fitness for a particular purpose.

**Limitations of Liability:** Liability for damages not related to Force Majeure will be limited to direct actual damages. Neither party will be liable to the other for consequential, incidental, punitive, exemplary or indirect damages, including lost profits or penalties of any nature, which are hereby waived, whether or not there was actual knowledge of such possible damages, or if such damages could have been reasonably foreseen. These limitations apply without regard to the cause or responsibility of any liability or damage.

Customer agrees to promptly notify Liberty Power of any account(s) which is/are not timely enrolled and in no event shall such notice to Liberty Power be later than 60 days from the expected Effective Start Date. In the event of a delayed or failed enrollment directly attributable to Liberty Power's actions or omissions, Liberty Power's liability is limited to the positive difference, if any, between what you paid for energy during that period, not to exceed sixty (60) days from the expected Effective Start Date, and the price pursuant to this Agreement, multiplied by your actual energy usage for that period.

**Service Interruption:** Liberty Power is not liable for any damages due to an interruption in service caused by acts of any governmental authority, or any ISO, or Changes in Laws, rules, regulations, practices or procedures of any such entity.

**No Class Actions.** As part of the consideration exchanged pursuant to this Agreement, all parties expressly waive and disclaim any right to bring any claim against each other in any and all forums, including, but not limited to, court and arbitration, as a class action or as a private Attorney General. No party may serve as a class representative or a member of a class action in litigation adverse to another party.